

GOVERNMENT OF TELANGANA
ABSTRACT

Public Services – Director of Public Health and Family Welfare – Dr.K.Nagabhushanam, Medical Officer (Retired), Khammam District - Allegation of Unauthorized absence from 23.11.1989 to 14.11.1994 – Disciplinary action initiated – E.O. appointed and submitted report – Orders of APAT & APHC –Punishment of 30% cut in pension for a period of 5 years for his unauthorized absence w.e.f. 23.11.1989 to 14.11.1994 – Imposed - Orders - Issued.

HEALTH, MEDICAL AND FAMILY WELFARE (VC.1) DEPARTMENT

G.O.MS.No. 81

Dated: 29/09/2015

Read the following:-

1. Rc.No.E2E/1872/95, dt.26-11-1995 of DPH, AP, Hyderabad.
2. Explanation of Dr.K.Nagabhushanam received from the DPH&FW, Letter Rc.No.1872/E2 H/94, dt.09.10.1996.
3. RC.No.E1/3/97, dt.2-6-1998 of DMHO, Khammam & E.O.
4. G.O.Rt.No.588, HM&FW (VC.II) Dept, Dt.17-5-2006.
5. Orders of Hon'ble Tribunal in O.A.No.6759/2006, dt.19.10.2009.
6. Judgment in W.P.No.28490/2010, dt.22.11.2010 of APHC.
7. G.O.Rt.No.3, HM&FW (VC) Dept., dt.05.01.2015.
8. Govt. Memo.No.22660/VC/I/2006, 05.01.2015.
9. From Dr.K.Nagabhushanam, Retired Medical Officer, Mudigonda, Khammam district, dated 06.03.2015.
10. From the Secretary, T.S.P.S.C, Hyd, Lr.No.500/RT/TSPSC/2015, dt.31.08.2015.

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ORDER:

Whereas Under Rule 20 of A.P. Civil Services (Classification, Control and Appeal) Rules, 1991 disciplinary proceedings have been initiated by issuing article of charges against Dr.K.Nagabhushanam, Medical Officer, MPHC, Mudigonda, Khammam District for his unauthorized absence from 22-11-1989 onwards by the Director of Public Health in the reference 1st read above.

2. In the reference 2nd read above, the Director of Public Health has stated that Dr.K.Nagabhushanam, is unauthorisedly absence for more than five years and he has acknowledged the charge memo and submitted his explanation.

3. The District Medical & Health Officer, Khammam who was appointed as Enquiry Officer on the charges framed against Dr.K.Nagabhushanam, Medical Officer, MPHC, Mudigonda, Khammam District, has submitted the enquiry report in the reference 3rd read above. Based on the Enquiry Officer's report, after following due procedure, Government imposed a punishment of 30% cut in pension for a period of five (5) years, besides treating the period of unauthorized absence from 23-11-1989 to 31-08-2003 as "Dies-non" on Dr.K.Nagabhushanam, Retired Medical Officer vide G.O. 4th read above.

4. Aggrieved by the above orders, Dr.K.Nagabhushanam, Retired Medical Officer, Primary Health Centre, Mudigonda approached the A.P. Administrative Tribunal and the Hon'ble Tribunal in its orders in the reference 5th read above, ordered that:

- (i) **"imposing the higher punishment of 30% cut in pension for a period of 5 years than that of the punishment indicated in the show cause notice is contrary to settled law and, therefore, the impugned orders are set aside by remanding the matter to the Government, for imposing a punishment in accordance with the decision taken independently basing on the facts and circumstances of the case of the applicant as indicated in the Show Cause Notices and to pass consequential orders to that effect".**

(P.T.O.)

- (ii) **"as far as the treating the period of absence from the date of reporting to duty before Director of Health as stated by the Enquiry Officer i.e. 15.11.1994 till the date of retirement i.e. 31.08.2003, it should be treated as waiting period as no orders have been passed after the applicant reported before the Director, and no reasons have been given in the counter for not issuing the posting orders to the applicant after report before the Director. Accordingly the OA is allowed".**

5. The Government have challenged the above orders of A.P. Administrative Tribunal in the A.P. High Court. The Hon'ble High Court in its orders in the reference 6th read above, disposed as under:

"As can be seen from the order impugned in this Writ petition, though the first respondent had reported to duty, he was not given posting order and, therefore, the Tribunal has rightly held that the period from 15-11-1994 till his retirement i.e. 31-08-2003, should be treated as compulsory wait. As the Tribunal has remanded the matter to the first petitioner herein for imposing a punishment in accordance with the decision taken independently, basing on the fact that punishment was enhanced from 10% cut in pension, as proposed in the show cause notice, to 30% cut, without issuing notice, we do not find any illegality in the order impugned. Therefore, without expressing any opinion on the merits or otherwise of the contentions sought to be raised before us, we dispose of the writ petition reserving liberty to the petitioners herein to give notice to the first respondent, if they intend to enhance the punishment from 10% cut in pension to 30% cut, and pass appropriate orders in accordance with law. The order impugned in the writ petition accordingly stands modified. With said modification in the order impugned, the writ petition stands disposed of. No order as to costs."

6. The Hon'ble Supreme Court in its orders dated 21.02.2014 dismissed the SLP filed by the Government, against the above High Court orders stating that there is no reason to interfere with the impugned orders.

7. Therefore, Government in the reference 7th read above, issued orders treating the period of absence with effect from 15-11-1994 to 31-08-2003 as waiting period / compulsory wait in favor of Dr.K.Nagabhushanam, Retired Medical Officer.

8. Further, keeping in view of the above orders of Hon'ble High Court in Writ Petition No.28490/2010, a show cause notice was issued to Dr.K.Nagabhushanam, Retired Medical Officer, why a penalty of 30% cut in pension for a period of 5 years should not imposed against him, on the allegations of Unauthorized absence with effect from 23.11.1989 to 14.11.1994, vide reference 8th read above. The Charged Officer has submitted his explanation in the reference 9th read above which is not satisfactory.

9. The Government after careful examination of the explanation of the Charged Officer found that there are no merits for consideration in the explanation of the charged officer and therefore, decided to impose a punishment of 30% cut in pension for a period of 5 years for his unauthorized absence period from 23-11-1989 to 14-11-1994. When consulted the Telangana State Public Service Commission, it has given its concurrence vide reference 10th read above.

10. Therefore, in exercise of the powers conferred under rule 9 of A.P. Revised pension Rules, 1980, Government hereby impose a punishment of 30% cut in pension for a period of 5 years for his unauthorized absence period w.e.f. 23-11-1989 to 14-11-1994 against Dr.K.Nagabhushanam, Retired Medical Officer, Khammam District.

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11. The Director of Public Health and Family Welfare, Telangana, Hyderabad shall take further action accordingly and furnish compliance report earliest.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**SURESH CHANDA
PRINCIPAL SECRETARY TO GOVERNMENT**

To

The Director of Public Health and Family Welfare, Telangana, Hyderabad.

Copy to:

The individual **through**

the Director of Public Health & Family Welfare, Telangana, Hyderabad.

The Secretary, Telangana State Public Service Commission, Hyderabad.

The District Medical & Health Officer, Khammam District.

The Accountant General, Telangana, Hyderabad.

The Director of Treasuries and Accounts, Telangana, Hyderabad.

The District Treasury Officer, Khammam.

SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER